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ABSTRACT

This manual is intended for use in training volunteer community conciliators involved in resolving conflicts between schools and parents of special education students. After an introduction, the manual outlines the principles of conciliation, emphasizing that it should be voluntary, informed, self-determined, impartial, and confidential. Conciliation characteristics are noted, such as respectful, voluntary, collaborative, empowering, confidential, and future-oriented. The case development process and conciliation meeting processes are described. The importance of teamwork is stressed, including guidelines for being a good team member and attributes and roles of a conciliator. A section on communication skills considers attitudes, speaking and listening skills, nonverbal behaviors, participant interests and positions, and specific ways to use communication skills within the conciliation process. Additional sections address theories of conflict, cross-cultural aspects of the conciliation process, and ethics. Forms used in the process are attached. (Contains a bibliography of 25 items.) (DB)

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Conciliation Program

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Lane County
Direction Service

Team Conciliator's Manual

Conciliation Program

Team Conciliator's Manual

Lane County Direction Service Conciliation Program thanks the following organizations for permission to use their materials in this publication:

Community Boards of San Francisco, Inc. (CBSF)
1540 Market Street, Suite 490
San Francisco, CA 94102
(415) 552-1250

Education for Conflict Resolution (ECR)
P. O. Box 275
North Manchester, IN 46962
(219) 982-4621

Mennonite Conciliation Service
P. O. Box 500
Akron, PA 17501
(717) 859-3889

Lane County
Direction Service
3875 Kincaid Street #18, Eugene, Oregon 97405
Voice (541) 686-5060 TDD/Fax (541) 686-5063

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We have borrowed generously from both CBSF and ECR in designing our training and in compiling this manual. ECR's training manual, "Mediating Interpersonal Conflict," is available for $15.00 (add $2.00 for shipping) from ECR at the above address.

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Some Thoughts

"Everyone can be great because anyone can serve. You don't have to have a college degree to serve. You don't have to make your subject and your verb agree to serve ...you only need a heart full of grace, a soul generated by love."

Dr. Martin Luther King, Jr.

"Being open and attentive is more effective than being judgmental. This is because people naturally tend to be good and truthful when they are being received in a good and truthful manner...openness is simply more potent than any system of judgments ever devised."

John Heider
The Tao of Leadership

"The biggest impediment to learning is not ignorance, but the illusion of knowledge."

John Boorstein

"...I have seen that in any great undertaking it is not enough for a man to depend simply upon himself."

Lone Man [Isna-la-wica], Teton Sioux

Introduction

The Direction Service conciliation process and much of the material in this manual were adapted from a process and materials developed by the San Francisco Community Boards, Inc. (SFCB). We, and they, call our approach "conciliation" rather than "mediation." With the rapid growth of the conflict resolution field, the term "mediation" is applied to a broad range of third party interventions. Because the process we use is based on one particular approach and certain underlying values, we call it "conciliation" to distinguish it from other mediative approaches to dispute resolution. In fact, many mediators use the approach we refer to as conciliation.

The dictionary defines conciliation by citing its Latin root, "conciliare-to call or bring together, to win over." Traditionally, conciliation has meant the process by which disputing people are brought together to talk about their conflict. The Conciliation Program enlarged this concept of "bringing together" to include not only the process by which people are literally brought together in the same room, but also the way they are encouraged to communicate so they can move beyond hostility, suspicions, and avoidance to address the dispute that divides them.

All forms of dispute resolution seek settlement of disputes. Mediators who emphasize problem solving to reach settlement may take an active role in exploring and identifying solutions and assist parties to do the same. The relationship between the people with the conflict may be considered, but is usually secondary to reaching an agreement.

Conciliation emphasizes building or rebuilding a relationship so that the disputing people can address their differences. We believe strongly that the conflict belongs to the disputants, as does the responsibility for its resolution. The process we use helps people share their perspectives and assists them to better understand themselves and each other. Out of a better understanding, people can fashion a more comprehensive and mutually beneficial agreement.

Conciliation is most appropriate when disputants have or want an ongoing relationship. When it achieves its goals, conciliation lays the groundwork for resolving not only the current difficulty but also future ones. This approach to conciliation has a strong educational component. Ideally, disputants will leave the conciliation session with new skills and knowledge that will empower them to deal more effectively with each other and with tension and conflict in other relationships. At its best, conciliation

Adapted from Community Boards of San Francisco, Inc., *Conciliation Handbook*, 1994.

does not merely resolve disputes, it also enhances interpersonal relationships and can improve the quality of life in a community.

The underlying values of conciliation are also reflected in the way the process is conducted. For example, a mediator may meet privately with each person to assess positions or test possible agreements. A conciliator, on the other hand, would raise these questions with both parties present in order to avoid an atmosphere of secrecy, to ensure that each person is a full participant, to de-mystify the process of reaching a resolution, and to reinforce the responsibility of the parties to settle their conflict.

Within some dispute resolution models, issues such as racism may be viewed as obstacles to reaching an agreement and therefore may be avoided. From the perspective of the conciliation model, however, surfacing these issues is crucial to reaching a deeper understanding and therefore a more durable agreement. A conciliator would seek to create an atmosphere where it is safe to identify and express those attitudes and how they are affecting the parties. Conciliation does not attempt to change deeply held beliefs and values, but parties can make agreements about future words and actions. This aspect of the process is part of our broader view of conflict as a natural and potentially positive phenomenon.

These distinctions are important because they are at the heart of the values that underlie our approach to dispute resolution and to our training. Our conciliation model is one we believe in; we also recognize that ours is not the only approach. We welcome any ideas that will enhance and further our work resolving disputes and improving relationships between families and schools on behalf of children.

This manual is dedicated to the people who have accepted the challenge to promote conciliation as a vehicle for empowerment, community building, and participatory democracy.

Adapted from Community Boards of San Francisco, Inc., *Conciliation Handbook*, 1994.

Principles of Conciliation

Voluntary

The principle that acknowledges the parties' right to enter freely into any agreements reached in the conciliation process. Any party has the right to withdraw from conciliation at any time.

Informed

The principle that affirms the parties' right to information about the conciliation process and other options and relevant resources before consenting to conciliation or consenting to the terms of any agreement reached in conciliation.

Self-determined

The principle that recognizes that parties to a dispute have the ability and the right to define their issues, needs, and solutions, and to determine the outcome of the conciliation process. It is the mutual responsibility of the parties to decide the terms of any agreement reached in conciliation.

Impartial

The principle that affirms the parties' right to a conciliation process that serves all parties fairly and the right to conciliators who refrain from perceived or actual bias or favoritism.

Confidential

The principle that affirms that all information received from the parties will be kept within the Conciliation Program. Any exceptions to confidentiality shall be made clear to the parties prior to their consent to participate in conciliation.

Adapted from Community Boards of San Francisco, Inc., *Conciliation Handbook*, 1994.

Characteristics of Conciliation

Conciliation is **respectful**. Participants agree to treat each other with respect. Each person has an opportunity to express important concerns without interruption. The conciliators assist the parties by reminding them of their agreements, if necessary.

Conciliation is **voluntary**. Those people most closely involved in the situation are encouraged to meet and discuss their concerns in an effort to reach a mutually satisfactory resolution. No one is required to participate.

Conciliation is **collaborative**. The conciliation session provides an opportunity for the parties to better understand each other and to work together to create solutions that meet their interests and needs. The conciliation process encourages the parties to move from positions as adversaries or opponents to a focus on communication, cooperative problem solving, and reaching a mutually acceptable resolution.

Conciliation is **empowering**. The parties are the decision makers; they explore issues and design solutions that are responsive to their concerns. The conciliators have no decision making authority and will not impose a solution or judgment on the parties.

Conciliation is **confidential** to the extent that the parties agree to maintain confidentiality. Often the ability to limit the "audience" and public scrutiny can help disputants safely explore sensitive issues.

Conciliation is **future oriented**. It is not necessary to agree about the past. In fact, people rarely do. The past is used only as a guide and background for developing agreements about future interactions. Sharing information about past events and perceptions can help each party gain a new understanding of the point of view and reasoning of others and create some common understanding.

Conciliation is not a process for assigning blame or determining fault. It is not an adjudication process and is not designed to determine legal rights. The parties are free from the rules of evidence or relevance. Focusing on or deciding who's right and who's wrong are not part of a conciliation session.

Conciliation focuses on communication, understanding, and creative problem solving. The conciliator's task is to help the parties express their concerns, understand each other's concerns, and work together to develop a solution, plan of action, or agreement for future behavior or interactions.

Participants in a conciliation session solve problems, but they have opportunities to do more. They can also repair damage to relationships and reestablish the trust that is required to produce mutually satisfactory and long-lasting agreements. They can create agreements that are workable, durable, and respectful of differences and do so in a way that strengthens the individual parties and through them their communities.

Conciliation and Special Education Disputes

Conciliation offers an opportunity for parents and educators to work together on a problem or misunderstanding rather than attacking or blaming each other, to learn from each other, and to work through their differences. Being able to work collaboratively and cooperatively to solve a problem helps people mend broken relationships and establish a foundation on which to build in the future.

Parents of children with disabilities and educators frequently disagree about the best educational approach for a child who needs special education. These disputes are natural and normal. Teachers and administrators may not agree, either with the parents or with each other, about what information is important, the meaning of particular information, or the best course of action. It is important that the best possible understanding be achieved as a child's well-being and future are likely to be affected. Processes to resolve such disputes should be accessible, cost-effective, and not hurt the parties and their relationship. When applied to special education disputes, conciliation seems particularly beneficial.

The Individuals with Disabilities Education Act (IDEA) is based on a fundamental premise that parents and educators, when working cooperatively together, are uniquely suited to make the best decisions regarding appropriate educational programs for children. This partnership is the central tenet in IDEA's strategy for assuring appropriate educational programs for children with special needs. Building and nurturing those partnerships is at the heart of making IDEA work.

In cases where parents and educators disagree about what is best for a particular child, IDEA provides each with the right to a due process hearing to resolve their disagreements. Due process hearings create adversaries and harm the relationship between parents and schools. Many states offer mediation as an alternative to due process hearings through state mediation programs.

Both due process hearings and state level mediation have proved unsatisfactory in some important ways. These alternatives may be difficult to access and expensive in dollars, emotional energy, and time when compared with their benefits. A community-based conciliation model may address the problems inherent in these dispute resolution methods and provide a preferable method for resolving special education conflicts.

Conciliation, however, may not be appropriate for all special education disputes. Circumstances that would make a situation inappropriate for conciliation include:

- one or both parties require(s) a legal interpretation of the IDEA or other applicable law;
- the goal of the parent is a personnel change;
- one of the necessary parties is unwilling to participate in a collaborative, problem-solving process; or
- there is an imbalance in capacity for which the conciliators and the parties cannot compensate sufficiently to protect the integrity of the conciliation process (e.g., diminished mental capacity, mental illness).

Conciliation requires the voluntary and cooperative effort of everyone involved to be successful. The process creates the opportunity for people

- to be heard,
- to hear "the other side,"
- to recognize areas of common concern and belief, and
- to work collaboratively to create agreements about areas where there are disagreements.

Conciliation can be a first step toward healing relationships that have been strained or even hostile. Conciliators support parties in creatively and jointly developing a plan for the future that is acceptable to everyone involved. When parents and educators can bring together their respective knowledge about a child for the benefit of that child, everyone reaps the rewards.

The Case Development Process

Initial contact

A parent or educator contacts Lane County Direction Service Conciliation Program and speaks with a case developer.

Meeting with the first party

The case developer makes an appointment to discuss the conciliation process and the caller's concerns. The conciliation process begins with this first contact. The case developer should exemplify the values of the Project—respect, non-coercion, collaboration, empowerment, and confidentiality.

The case developer explains the conciliation process, including:

- it is voluntary and collaborative;
- the parties maintain control over all decisions and agreements;
- the focus is on the future, rebuilding relationships, and creating a solution;
- the intention is to reach a better understanding from which a mutually satisfactory resolution may evolve; and,
- the goal is not to establish blame or fault.

The case developer assists the first party to:

- clarify goals;
- determine what information s/he needs to effectively participate in the conciliation process;
- evaluate alternatives to the conciliation process; and,
- determine whether s/he has sufficient capacity to effectively participate in the conciliation process.

A party's perception of available alternatives determines his or her motivation to participate in conciliation and the solutions that s/he would consider acceptable. Part of considering alternatives involves educating the parties about the conciliation process and helping them realistically consider the kinds of results that they can

expect to get by using this process as compared with another. For example, if a party wants a legal precedent, s/he must use the legal system. If the party wants an apology, the legal system usually will not produce that result, whereas conciliation might (although that will depend entirely on the parties).

The case developer helps the initiating party determine who would be the most appropriate person to participate as the second party in the conciliation process. This would be the person who is needed to make a potential solution work or who could block or cause the failure of a solution. If the first party is a parent, this might be the educator with whom the parent is having a disagreement or who must approve expenditure of funds. If the initiating party wishes to pursue conciliation, s/he will sign an *Agreement to Participate and Agreement to Confidentiality* form. Parents are also asked to sign a Release Form that allows school personnel to talk about the child and the situation with the case developer.

Meeting with the second party

The case developer contacts the second party, shares information about the conciliation process and this particular request for conciliation, and listens to the concerns and perspective of the second party. The case developer helps the second party evaluate alternatives and determine whether s/he is willing to participate. If the second party is an educator, this may include whether s/he is the appropriate second party in this situation. When the appropriate second party is identified and agrees to conciliation, s/he will sign an *Agreement to Participate and Agreement to Confidentiality* form.

Scheduling a conciliation session

The case developer contacts volunteer conciliators to assemble an appropriate team. S/He screens potential team members to be sure they do not know either party or have other considerations that might produce a conflict of interest. The case developer finds a neutral location for the session and schedules the conciliation at a time convenient for the parties and team members.

Briefing the conciliation team

The case developer meets with the team just before the mediation session and gives them relevant information about the parties and the dispute. S/He may also serve as a team facilitator during the conciliation session, observing the process, and giving guidance and feedback during and after the session.

Follow-up

The case developer or one of the conciliators agrees to contact the parties at an agreed upon time following the conciliation session to see how any agreement reached during the session is working and whether there is a need for a follow-up session.

The Process

The Conciliation Process: an Overview

Briefing (before parties arrive)

Give the conciliators an overview of the situation.

Allow the conciliation team to organize itself for the session.

Opening

Put the parties at ease.

Establish a safe environment.

Issues Phase

Give the conciliators an overview of the issues.

Reduce tension and hostility.

First Transition (from Issues to Understanding)

Choose starting point for Understanding Phase.

Help parties see progress and understand next step.

Understanding Phase

Help the parties understand each other's concerns and feelings.

Reveal information or concerns new to the other person.

Second Transition (from Understanding to Agreement)

Help people acknowledge new understanding.

Help people begin working on mutually acceptable solutions.

Agreement Phase

Resolve each issue.

Develop and record a clear, mutual, workable agreement.

Closing

Affirm both parties.

Bring closure to the session.

Debriefing (after parties leave)

Allow the conciliators to relax together.

Evaluate the session and determine any next steps needed.

Adapted from "Mediating Interpersonal Conflict," Education for Conflict Resolution, Inc., ©1995.

The Conciliation Process: in Brief

Opening

What: Put the parties at ease.

Establish safe environment for the conciliation process.

How:

a. Introduce conciliators and parties.

b. Explain process to parties.

c. Explain ground rules and get agreement from parties on the rules.

d. Assure confidentiality.

Issues Phase

What: Give the conciliators an overview of both parties' issues.

Reduce tension and hostility by letting parties vent feelings toward conciliators rather than each other.

How:

a. Let each party express issues and feelings to conciliators.

b. Balance the interaction: move back and forth between parties, to keep anger and tension from building up.

c. Restate, especially early in Phase and whenever issue clarification is important.

d. Validate, clarify, and follow leads.

e. Ask about both issues and feelings.

f. (Notetaker) Summarize issues and ask the Magic Question: "Is there something you want us to understand that you feel we don't understand yet?"

When to move on:

Do we understand the major issues for each party?

Are they ready and able to talk with each other now?

Adapted from "Mediating Interpersonal Conflict," Education for Conflict Resolution, Inc., ©1995.

First Transition (from Issues to Understanding)

What: Choose starting point for Understanding Phase.
Help parties see progress and understand next step.

How: a. One team member
- validates the parties' efforts.
- explains what the notetaker and other conciliators will be doing during this Transition.

b. Team members work together to choose an issue for parties to begin the Understanding Phase.

c. Team members
- share the concerns heard by the team, state which one the team would like to start with, and ask parties if the chosen issue is acceptable.
- explain how the Understanding Phase works (speak directly, restate).
- ask if the parties have questions.

Understanding Phase

What: Help each party understand the other and be understood.
Surface information or concerns that may not have been known or previously shared.

How: a. Guide parties to talk to each other, beginning with chosen topic.

b. Help them to restate before responding, especially at first, and when understanding is key.

c. Highlight new information and areas of common ground.

d. Allow dialogue to go on without conciliator input if it is fruitful, but intervene if parties are getting stuck.

e. Guide parties to speak out of hurt, rather than out of anger.

f. Help parties focus on specific issues.

When to move on:

Do the parties understand each other's main concerns?

Do they trust each other enough to work together on solutions?

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Second Transition (from Understanding to Agreement)

What: Help people acknowledge new understanding.

Help people begin working on mutually acceptable solutions.

How:

a. Ask each person: "What new understanding (or information) do you have about the situation?"

b. A follow-up question is often helpful: "If you had known then what you know now, what would you have done differently?"

c. If the parties respond to these questions either half-heartedly or revert to blaming the other person, the conciliators may decide to do more work in the Understanding Phase.

d. If it does not seem that more work in the Understanding Phase would be helpful, say: "If this problem is to be resolved, both of you must be willing to work together to find a solution. Are you both willing to move forward and develop a workable solution?"

e. If people agree, move on to the Agreement Phase. If they are not ready, ask what they need from the team or from each other to be able to move toward a resolution.

Adapted from "Mediating Interpersonal Conflict," Education for Conflict Resolution, Inc., ©1995.

Agreement Phase

What: Develop a mutually agreeable resolution of each issue.
Be sure the written agreement is clear, mutual, and workable.

How:
a. Begin with easy issues.
b. Refer to solutions suggested in earlier phases.
c. Guide parties to resolve each issue.
d. Do not suggest solutions.
e. Create and read aloud, point by point, a written resolution and have parties sign it.

When to move on:

Has every important issue been resolved?
Is the agreement clear and workable, and have potential breakdowns been explored?

Closing

What: Affirm and encourage both parties.
Bring closure to the session.

How:
a. Conciliators express appreciation for parties and their work.
b. If parties reach an agreement, give a copy to each party, or let them know when they will receive one.
c. If parties did not reach any agreement, point out other successes.
d. Clarify follow-up.
e. A clear, positive closing statement will signal that the session is over.

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The Conciliation Process: in Detail

The Briefing

Give the conciliators a basic understanding of the parties, the issues, and the feelings involved in the case.

Allow the team to focus on the case and organize itself for the session.

- Conciliators meet with the case developer no less than forty-five minutes before the session is to start. It is important to be on time. Parties typically arrive early, so expect to end the briefing ten minutes before the session. If parties arrive before the team is ready, the case developer can talk with them while the team organizes itself for the session.
- As the conciliation team assembles, some time for small talk and "catching up with each other" can be helpful to let people make the transition from the day's activities to the conciliation session.
- The case developer tells the conciliation team who the parties are, how their names are pronounced, and gives a brief summary of the issues involved in the situation from each party's point of view. Conciliators may ask questions to clarify their understanding, but it is important to remember that the best understanding of the situation will come from the parties themselves in the Issues Phase of the conciliation session.

The team works together to:

- Review the process: review the phases, decide how to begin each phase, and develop some questions team members may want to ask.
- Establish roles: using *"Roles in the Conciliation Process,"* the team decides who will take each role for this session.
- Discuss teamwork expectations: team members discuss how they will work together, including what worked best for them in the past. For example, "Last time I was on a team, we agreed to check in with each other if anyone felt we were going in different directions and that helped me feel that we were listening to each other, as well as to the parties."

Adapted from "Mediating Interpersonal Conflict," Education for Conflict Resolution, Inc., ©1995.

The Opening

Put the parties at ease with the conciliators and the process.

Establish safe environment for the conciliation process.

- Meet the parties at the door or in the hallway, welcome them into the room, make introductions, and show them where to sit. Find out how they each would like to be addressed.
- Affirm their intention to reach an agreement and their choice of conciliation as a way to do that.
- Explain that:
  --The conciliation team:
    - is impartial;
    - will not decide who is right or wrong;
    - will help the parties find a solution that is mutually satisfactory; and
    - will write the agreement for both parties to sign and take home, if they reach an agreement.

  --The conciliators:
    - are trained volunteers who believe this process can help the parties resolve their issues; and
    - will maintain confidentiality regarding the parties, their concerns, and any information related to the situation.
- Explain the process:
  --During the first part, each party will talk directly to the team and explain the situation as s/he sees it.
  --During the next part, parties will have an opportunity to talk with each other so they can understand each other's concerns.
  --In the last part, parties may work together to make agreements that will address the concerns of both parties and resolve the issues.

Adapted from "Mediating Interpersonal Conflict," Education for Conflict Resolution, Inc., ©1995.

- Explain that:

  --the process works best if the parties:

  - let the other person speak without interruption, and
  - treat each other with respect.
  - Ask the parties to agree to these ground rules.
  - Clarify the time frame for the session. Agree to a certain time at which either the session will end or the time will be renegotiated.
  - Ask if anyone has any questions.
  - Read the Overview of the situation.

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The Issues Phase

Give the conciliators an overview of both parties' issues.

Reduce tension and hostility by letting parties vent feelings toward conciliators rather than each other.

- Invite each party to give a brief statement about the concerns that brought them to conciliation. Assure them that each person will have enough time to say everything that is important to them. Ask each person to speak directly to the conciliators during this part of the process.
- When each person has given an initial statement, move back and forth between the parties, balancing the "air time" to keep anger and tension from building up.
- Restate what the parties are saying, especially early in the Phase and anytime later when what is being said is particularly important.
- Validate early and often. Validation of the parties and their efforts is very important, giving encouragement to continue what is often a very difficult experience.
- Ask follow-up questions to clarify what is being said, but don't interrogate. Follow leads and hunches, but don't ask questions to satisfy your curiosity. Good questions help people understand themselves, the other person, and the situation.
- Be sure to ask about feelings as well as issues and information.
- When the team feels that the work of the Issues Phase has been done, ask the Magic Question: "Is there something you want us to understand that you feel we don't understand yet?"
- The notetaker summarizes each party's concerns clearly and succinctly including both issues and feelings. When both parties are satisfied with the summary of concerns, the Issues Phase is complete.

When to move on:

Do we understand the major issues for each party?
Are the parties ready and able to talk with each other now?

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First Transition (from Issues to Understanding)

- The transition between the first and second phases is the time for the team to consider its initial approach to the Understanding Phase. A good way to do this might be for one conciliator to say something like, "We need a few minutes now to look over the concerns you've each shared and decide on the most efficient way to help you work on them."
- The discussion of how to begin the Understanding Phase is an important one, but must be completed as quickly as possible (no more than five minutes). At the end of the Issues Phase conciliators may have an intuitive sense of one or two good approaches. Here are possible starting places:
  - -- a point on which the parties are already coming together;
  - -- a common background or experience, or a shared concern;
  - -- the most manageable of the issues they have expressed; or
  - -- the issue that must be resolved in order for the other issues to be resolved.

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The Understanding Phase

Help each party understand the other and be understood.

Surface information or concerns that may not have been known or previously shared.

- Explain that in this part of the session the parties will primarily be talking with each other. You might have them turn their chairs to face each other. Remind them that the same ground rules still apply.
- Guide parties to talk to each other, beginning with the chosen topic. At the beginning, coach them to restate what the other person has said before responding. This does not need to be done throughout the Phase, but it is important at first, and any time what has been said is especially important. Be careful, however, not to impose restating at times when it is more important to let the conversation flow freely.
- Help the parties keep to one issue at a time, and make suggestions as needed about what they might talk about. The more they talk about their concerns without the conciliators' intervention, the better. However, be ready to guide them if they get stuck, or if they begin to act in ways that hinder the conciliation process.
- Guide them to speak more out of hurt (frustration, fear, embarrassment) and less out of the anger that has resulted from those feelings.
- When new information surfaces, common ground is discovered, or a positive change in attitude is evidenced, help the parties notice and appreciate this.
- Validate their efforts, progress, or any aspect you can honestly affirm. This is very important to the progress of the Understanding Phase. At the end of this Phase, help the parties realize how far they have come and express your confidence in their ability to reach mutually acceptable agreements.

When to move on:

Do the parties understand each other's main concerns?
Do the parties trust each other enough to work together on solutions?

Adapted from "Mediating Interpersonal Conflict," Education for Conflict Resolution, Inc., ©1995.

Second Transition (from Understanding to Agreement)

- Help parties acknowledge new understanding.
- Help parties begin working on mutually acceptable solutions.
- Ask each person: "What new understanding (or information) do you now have about this situation?" or perhaps more simply "What do you know now that you didn't know before?"
- A follow-up question that is often useful, especially for helping people develop problem-solving skills for working on future conflicts, is: "Given this understanding, if this or a similar situation arises in the future, how would you handle it?"
- People may share their new understanding easily, e.g., "If I had known/understood_____, I could/might have_____," and the conciliation can move smoothly into the Agreement Phase.
- Even if the previous phases have gone well, these questions sometimes cause difficulty because they remind people of where they were before the meeting. At best, acknowledgment may be half-hearted and self-serving. At worst, people may revert, out of pride or habit, to denial and blame.
- If the regression is extreme, the conciliators may choose to do more Understanding Phase work before moving on to the Agreement Phase.
- If it does not seem that more work in the Understanding Phase would be useful, say: "If this problem is to be resolved, both of you must be willing to work together to find a solution. Are you both willing to move forward and develop a workable solution?"
- If the people agree, then move on to the Agreement Phase. If they are not ready, ask what they need from the conciliation team or from each other to be able to move toward a resolution.

Adapted from "Mediating Interpersonal Conflict," Education for Conflict Resolution, Inc., ©1995.

The Agreement Phase

Develop a mutually agreeable resolution of each issue.

Be sure the written agreement is clear, mutual, and workable.

- Begin the Agreement Phase with one of the easier issues, especially one where there already may have been some progress or reconciliation. If suggestions or solutions were made by either of the parties in an earlier phase, it will probably be helpful to bring those ideas back at this time.
- Guide the parties to focus on one issue at a time, and to explore possible solutions for each one. As each element of the agreement emerges, the notetaker will write that part and read it back to the parties for approval of the specific wording.
- Be sure that both parties are participating freely in suggesting and evaluating possible solutions. Do not let one party dominate the Phase. Find ways to equalize involvement. If you feel that one person may be inappropriately accommodating, help that party voice his or her needs and interests.
- Beware of the temptation to suggest solutions. That is not your role as conciliator. If the parties seem stuck, apply your creative thinking not to solving their problem but to removing whatever is blocking them from solving it themselves. Sometimes it helps to get the parties to brainstorm and list several possible solutions. Sometimes breaking the problem down into a set of smaller problems is useful. If you think the people involved are missing an obvious solution, you might encourage them to expand their thinking or take a fresh look at the picture.
- The parties are typically feeling very positive by the time they reach the Agreement Phase. This can lead prematurely to the feeling that the problem is solved and everything will be fine. As conciliators, you need to encourage this positive attitude, but at the same time guide them to be very clear about the agreements they are making. Help them create solutions that will be workable and realistic for them.
- When a solution has been identified, it is very important to consider all of the barriers to implementation to be sure that agreements are well considered and can be kept. Ask questions such as, "How will you handle it if _____ occurs? Will you still be able to keep the agreement?"

When to move on:

Has every important issue been resolved?
Is the agreement clear, mutual, and workable, and have potential breakdowns been considered?

The Closing

Affirm and encourage both parties.

Bring closure to the session.

- Express your appreciation for the parties and their work in the session. Remind them again of how far they have come and express confidence (if you feel it) in their ability to work within their new agreement to resolve identified problems.
- If parties reached an agreement, give a copy to each party or let them know when they will receive a copy.
- If parties did not reach an agreement, point out other successes such as being willing to try conciliation, talking together respectfully, or clarifying areas of disagreement.
- Let them know that they are welcome to work with the Conciliation Program again if that would be helpful.
- Clarify any follow-up commitment.
- A clear, positive closing statement will signal that the session is over. Sometimes the parties are so relieved and happy that they seem to want to sit and continue talking with the conciliators. This is fine if everyone shares that desire, but usually some or all of the conciliators are tired and ready to be finished. It is generally better to indicate clearly that the session is over. Standing up to shake hands can be a good way to close.

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The Debriefing

Allow the conciliators to relax together.

Evaluate the session and determine any next steps.

- After a conciliation session, it may be late, and often the conciliators will be tired. However, it is important to take a few minutes to debrief.
- The debriefing is a safe time for the team to relax and talk about the session. This will probably include observations about the session that would not be appropriate for the people involved to hear, so be sure that you are not overheard. Often, the first several minutes of the debriefing are just free-flowing conversation as you unwind together.
- It is a good idea to take time to affirm the good work of each member of the team. Be specific about ways that each person was helpful in the session.
- It may be useful to ask, "Did we learn anything new about conciliation in this session? What worked? What would we do differently?" Look for lessons in both the mistakes and the successes.
- Consider and assign any next steps, such as scheduling additional sessions or making follow-up calls.

Adapted from "Mediating Interpersonal Conflict," Education for Conflict Resolution, Inc., ©1995.

Roles and Work of the Team

Teamwork

Good teamwork among the team members is essential to guiding people successfully through the phases of conciliation. It also models the kind of behavior parties can use to better understand each other, successfully communicate, and work together toward a resolution.

Each team member is responsible for seeing that the team works well together by making sure that:

-- one team member is not doing all the work,

-- team members are not working at cross purposes, and

-- each team member is participating to the degree appropriate for him/her in this particular session.

How to be a Good Team Member

Respect, trust, support, and listen to one another.

Support and assist without taking over:

For example, if you have not been assigned the Summary of Concerns, don't move in and do it. Do support and assist if appropriate.

Don't interrupt:

Even if you think a fellow team member has finished, check it out: "Millie, if you're finished, I have something I'd like to ask James. Are you through?"

Check-in:

If you feel confused or uncertain about what the team or a team member is trying to do, express your feeling respectfully and constructively. "Excuse me, Millie, let's come back to that option when we begin to talk about the specifics of a resolution. We can make a note of James' offer so we won't forget it."

Promote everyone's participation:

If you're dominating, back off. If others are silent, make space for or encourage their participation: "Millie, a while back you asked James about his most important issue. Is there anything else you want to ask about that?" or "Millie, you've been quiet for a while, do you have anything you want to add?"

Take a break:

If you believe that progress is hopelessly stalled or the team is on the wrong track, request a "time out," during which the team can meet briefly and privately with the facilitator to get things moving again.

Adapted from Community Boards of San Francisco, Inc., *Conciliation Handbook*, 1994.

Roles and Attributes of a Conciliator

An effective conciliator has many important roles to play and serves as a model for the parties as they strive to communicate effectively.

An effective conciliator:

--acts as a facilitator of the dispute resolution process
--opens channels of communication
--translates and transmits information
--helps distinguish wants from needs
--promotes belief in the disputants' ability to resolve the conflict, acting as an agent for empowerment
--builds trust and rapport between the parties
--encourages collaboration
--maintains a safe environment, including creating an opportunity for safely venting feelings
--helps surface assumptions, suspicions, beliefs, values, perceptions, expectations
--develops an agenda and assists in prioritizing agenda items
--identifies progress
--identifies areas of agreement
--helps to break deadlocks
--encourages evaluation of potential solutions
--is an agent of reality
--drafts agreements or memoranda of understanding

Essentials

Impartiality

Don't take sides. Once you do, you lose your effectiveness as a conciliator. The parties will argue with you rather than dealing with each other. You will have become part of the problem.

Informality

Be your warmest, most natural, most hospitable self. Don't be afraid to use humor when it seems appropriate.

Respect

Be respectful at all times. Do not lecture or talk down to people.

Empathy

Put yourself in each participant's shoes. Don't be a judge. Be supportive without agreeing or taking sides. Let each party know you hear and understand how important his/her concerns and emotions are to him/her.

Empowerment

Trust the process and the participants. The problem belongs to them. You are there to help them identify and discuss the issues, improve their understanding of themselves and the conflict, and create their resolution.

Adapted from Community Boards of San Francisco, Inc., *Conciliation Handbook*, 1994.

Roles in the Conciliation Process

Roles in Beginning of the Session:

One or two people to:	greet parties when they arrive
Four people to:	lead in opening the session
	-- one person welcomes the parties
	-- one person explains how the session works
	-- one person explains the Ground Rules
	-- one person reads the Overview
One person to:	ask the first question

Ongoing Roles:

One person to:	take notes for the team, and summarize issues at the end of the Issues Phase. Write out the agreement as it is created during the Agreement Phase.
One person to:	notice progress and suggest when to move to the next phase.
One person to:	pay attention to time.

Adapted from Community Boards of San Francisco, Inc., *Conciliation Handbook*, 1994.

Opening Statements

Welcome (first team member)

Welcome. We would like to begin by introducing ourselves. (Be sure everyone in the room is introduced.)

Thank you for being here. We respect you for making the choice to use a conciliation process to resolve your concerns. We are all volunteers and are here today to help you work together to reach your own agreements.

We do not take sides, and we do not judge or make decisions for you. We will protect your confidentiality. Any information shared in the conciliation will not be shared with anyone else without your permission. There is one exception to this commitment: We have a legal obligation to report any concern about child abuse.

You are the ones who can come up with the agreements that are best for each of you. We are not experts on the law. This is not a legal proceeding, and we will do our best to make it as comfortable as possible for you to talk to each other about what is important to you.

The Process (second team member)

The way we work is simple. In the first part of the meeting, we ask you to talk only to us, the conciliation team. Tell us how you see and feel about what has happened and what is going on now. Then you will have a chance to talk to each other. Don't worry about having to prove anything. This will be a time for you to express your concerns. We will help out if you get stuck and assist you each to understand what is important to the other person.

For the last part of the meeting, we will help you work together to form agreements that will be what both/all of you wants. We will write your agreements down; you can then confirm and sign them. This is a good faith agreement.

Often, we can help people resolve their concerns in one meeting. If for any reason that is not possible, a second meeting can be scheduled if both/all of you agree.

Adapted from "Mediating Interpersonal Conflict," Education for Conflict Resolution, Inc., ©1995.

The Ground Rules (third team member)

For this meeting to work, we need your agreement to two ground rules: First, we ask you to allow each person to finishing speaking before you say something. Don't interrupt even if you don't like or disagree with what is being said. You will get a chance to say what you want. You may want to take notes so you won't forget what you want to say.

The second ground rule is to treat each other with respect. It's okay to disagree and to say how you feel about something; it's not okay to insult anyone.

Do you agree to these ground rules?

_____ will now read a brief overview of the situation.

Adapted from Community Boards of San Francisco, Inc., *Conciliation Handbook*, 1994.

Sample Overviews

The Overview, prepared by the case developer or by a team member during the briefing, is a concise, general description of the situation. The tone and language are neutral and conciliatory.

> Joe Kelly is a middle school student receiving special education services. His parents, Susan and Stan, do not believe the school district is providing Joe with enough one to one instructional time to allow him to benefit from his educational placement. Stan Kelly and John Smith, the Resource Room teacher from Joe's middle school, have agreed to meet and discuss the parents' and the school's concerns.

> Linda Lee is the parent of Sandra Lee, age 5, who has been receiving early intervention services. Linda does not believe Sandra is ready to start kindergarten. The school district is concerned that she is not receiving services in the least restrictive environment. Linda and Joan Deal, the special education director for the district, have agreed to meet to discuss what is best for Sandra.

> Billy Jones has been suspended from attendance at ABC High because of increasingly aggressive and violent behavior in the classroom and at school generally. Billy's mother believes Billy's behavior is related to his disability and that suspension is an unacceptable and unlawful act by the school. Joan Lewis, Billy's mother, and Brad Bowls, the vice principal at ABC High, have agreed to use the conciliation process to try to reach a mutually acceptable resolution.

Adapted from Community Boards of San Francisco, Inc., *Conciliation Handbook*, 1994.

The Summary of Concerns

At the end of the Issues Phase, one team member may ask each party in turn the Magic Question: *"Is there something you want us to understand that you feel we don't understand yet?"* This question encourages each party to reflect on what s/he wants the team and other party to understand and consider what s/he believes they understand now. The answer will usually be an important piece of new information, a statement identifying what is most important to that party, or an indication that the party feels the team understands what is important to him/her.

The last type of response indicates that the party is ready to move into the Understanding Phase. To end the Issues Phase, the team notetaker reads the list of issues or summary of concerns that includes both the substantive issues and the relational and emotional issues for each party.

Doing a Summary of Concerns provides:

- Another **opportunity** to validate the concerns of the parties and to let them know the team has really heard them.
- An **anchor** to ground people when they hear their concerns listed clearly and simply.
- A **bridge** linking the common concerns of the parties.
- A **map** to help the parties discuss each of their concerns in the phases to come.

In Presenting a Summary of Concerns:

- Address each party directly, in turn, in the first person: *"Dwayne, I heard you say . . ."*
- Check in to make sure all points are covered and then move on to the next party: *"Dwayne, have I listed all of your concerns?"*
- After summarizing for each party, state concerns that both parties share: *"I hear both of you saying that this problem has been very upsetting for you."*
- Fellow team members may contribute to and support the Summary as well.

Adapted from "Mediating Interpersonal Conflict," Education for Conflict Resolution, Inc., ©1995.

Elements of a Good Agreement

The written agreement is typically the only tangible outcome of the conciliation process. The way it is structured can give the impression that one party is conceding and the other gaining everything. It should include the contributions of both parties to the agreement in a way that reflects the give and take of the negotiations. For example, *"Mrs. Gonzales agrees to provide and Mr. Jones agrees to accept . . ."* Including the intangible aspects of the agreement such as apologies and acknowledgments may be important to at least one of the parties.

The written agreement should contain the words of the parties' agreement and be written so that someone who was not present at the session can understand who agreed to do what by when and how. Write out numbers and the names of months. If the agreement is not specific and clearly written, it can become a source of further conflict.

Specific

"Wilma agrees to contact Billie's teacher whenever he has had a difficult night or if he has refused to take his medication."

Realistic

"Fred, you said you could provide Sarah with 20 minutes of extra reading help each day, but you also said you were over booked with students. Is that realistic?"

Balanced

"Martha, Jose has agreed to call you if Andrea's behavior in school is especially good or if she had problems that day. What do you think you could do?"

Inclusive

Positive behavior (e.g., an apology sincerely made and accepted) and new understandings are not resolutions, but including them in the written agreement is validating at the moment and a useful reminder in the future.

Legible

Since the agreement will be copied for the parties, write legibly and in black ink.

Adapted from Community Boards of San Francisco, Inc., *Conciliation Handbook*, 1994.

Separating Your Problems from Theirs

Our brains are natural problem-solvers. Thinking about possible solutions to problems we encounter (even when they are not our own problems) is a normal and healthy response. But conciliators beware: this natural response can interfere with good conciliation!

Remember your role: you are there to help two or more other people find solutions to their problems, not to give them solutions. The conflict belongs to the people involved, and the solution must belong to them also.

- If it is their solution, it will be a better fit.
- If they work out the solution, they are empowered.
- If they cooperate in finding the solution, their relationship is strengthened.
- If they work it out, they're more likely to be able to work it out next time.

A good conciliator, then, will not offer solutions to the people involved, but will be a fair and skillful ally who supports and facilitates their process of resolution.

What, then, do we do with our natural urge to problem-solve? We work on **our** problems. And in the midst of a conciliation session, we usually have plenty of our own. Here are some examples of our own problems-to-solve:

- What does she need to hear in order to trust his good will?
- She didn't even hear his apology — how can we get back to that again?
- It's almost 9:30 p.m., so do we look for a place to stop or try to finish tonight?
- He is really dominating this -- how can we get a better balance in this process?
- We're all getting tired. Should we take a break?

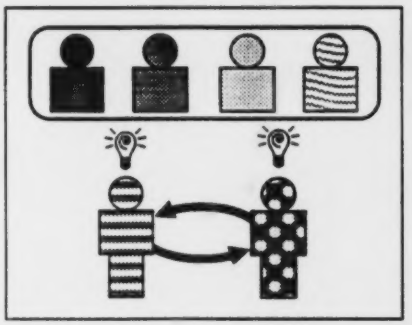
There are usually a number of such problems for conciliators to solve throughout the process. Let your mind work on those, not on suggesting solutions to their conflict. The danger is that you'll be thinking about their problems and miss the ones you should be solving as a good conciliator.

The parties' task: find solutions to the issues involved in the conflict.

The conciliators' task: remove any obstacles preventing the parties from accomplishing their task.

Adapted from "Mediating Interpersonal Conflict," Education for Conflict Resolution, Inc., ©1995.

Understanding Phase



What: Help people understand each other and the situation, acknowledging new understandings as they arise.

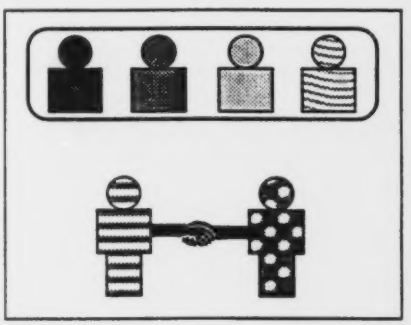
How:
1. Select one issue/concern and encourage them to talk to each other. Help them stay focused.
2. Facilitate the conversation. Have them talk to each other about each issue listed in the summary at the end of the Issues Phase.

Second Transition

What: Help people acknowledge new understandings and prepare to work on solutions.

How:
1. Ask each person: What new understanding do you have about this conflict?
2. If responses are half-hearted or parties revert to blaming, the team may decide to do more work in the Understanding Phase.
3. If it seems more work in the Understanding Phase would not be helpful, explore the parties' willingness to work toward a workable solution.
4. If people are ready, move to the Agreement Phase.

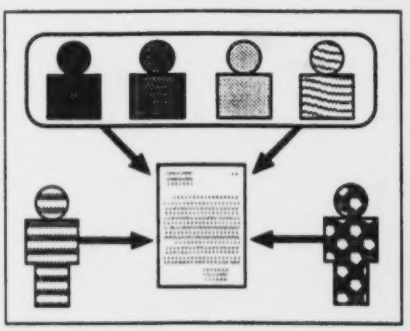
Agreement Phase



What: Help people create their own agreement.

How:
1. Ask each person what a fair solution would be.
2. Use active listening to help them work out a specific and balanced agreement.
3. Summarize the agreement and put it in writing.

Closing



What: Finalize the agreement. Acknowledge good work, and thank people.

How:
1. Read the written agreement for confirmation.
2. The parties and team members sign the agreement.
3. Make closing remarks. Include acknowledgment of good work and congratulations, as appropriate.

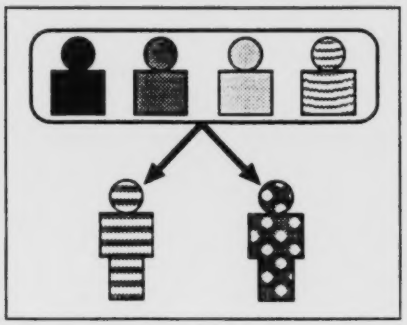
Adapted from Community Boards of San Francisco, Inc., *Conciliation Handbook*, 1994.

The Team Process in Summary

Opening

What: Welcome people, begin building trust, and explain the process and the ground rules.

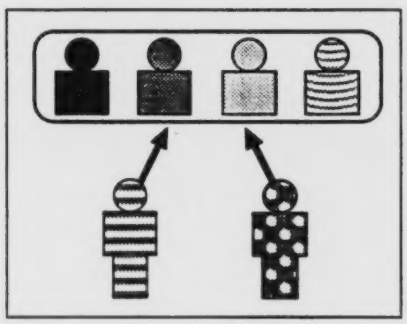
How:
1. Team welcomes everyone.
2. People introduce themselves.
3. Team members make opening remarks.
4. Team members and parties agree on ground rules.
5. Team member reads overview.



Issues Phase

What: Help people tell their stories and express their feelings.

How:
1. Ask each person to speak.
2. Use active listening to clarify and focus the issues and help people identify their feelings.
3. Summarize the main concerns of each person and what the parties have in common.



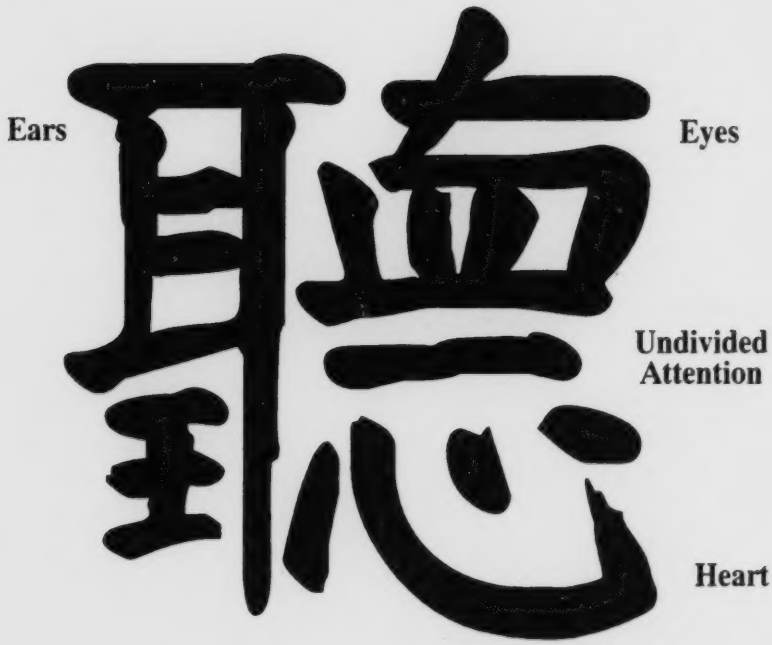
First Transition

What: Choose starting point for Understanding Phase

How::
1. Team members choose issue or common ground to begin Understanding Phase.
2. One team member talks with parties to explain the notetaker's role and the Understanding Phase, as well as validate the parties efforts and ask if they have questions.

Adapted from Community Boards of San Francisco, Inc., *Conciliation Handbook*, 1994.

Communication



The Chinese characters
that make up the verb "to listen"
remind us that listening is a complex skill.

Communication Skills

Like language, communication is learned, mostly from our families. Communication skills can be improved, and improvement comes through practice and openness.

Many difficulties between people are the result of a breakdown in communication. What gets in the way of good communication can be unlearned and other more helpful things substituted.

Communication, both listening and speaking, requires commitment. Listening is not automatic. Just because I have two ears does not mean that I am necessarily a good listener. There are specific, learnable skills that can improve listening.

In addition to listening, the other part of good communication is speaking: the sending of messages. Sending direct, clear messages is the responsibility of the speaker. Again, specific, learnable skills can improve the effectiveness of the speaker's half of the communication loop.

Good communication is exciting, honest, and alive. It may mean being willing to take a risk to help keep things open. Taking the risk to be open means I care enough about the other person to listen to her or him and to be honest about my own thoughts and feelings.

Components of Good Communication

Attitudes:

The attitudes that I bring to a conversation are important to effective communication. To communicate well, I need to:

- be willing to be patient and support others.
- be willing to accept others as they are, without judging them as *"right"* or *"wrong."*
- be willing to experience new ideas, feelings, and people.
- be willing to be honest, open, and responsible in what I say to others.
- be aware of and give attention to cultural differences in communicating.
- care about myself and the people with whom I communicate. How am I feeling? How is the other person feeling? How does that affect our communication?
- respect myself and others as individuals and as valuable human beings.
- be responsible for myself, my ideas, and my feelings. No one *"makes"* me impatient; I feel impatient.

Speaking Skills:

Certain skills in speaking can aid in communicating better with others. Some speaking skills that can help are:

- using *"I"* statements. The speaker takes responsibility for what s/he says.
- being aware of the difference between feelings and thoughts. Example: *"I think this has gone on long enough,"* is a *"thought"* response. A *"feeling"* response is, *"I'm frustrated (or impatient)."*
- being focused and specific; avoiding generalizations.
- being aware of assumptions. *"What are the assumptions that I have about the person I'm speaking with? How do those assumptions affect our communication?"*
- using language that others can hear and understand.
- being conscious of cultural speaking styles—the speaker's own style as well as the styles of others.

Listening Skills:

Listening to another person is an opportunity to view the world as s/he sees it. Some of the skills that enable us to hear the other person most effectively are:

- actively listening. This means really paying attention and giving my full energy to hearing the other person. I need to put other things out of my head temporarily and ignore the distractions around me. There is nothing more important for me to do right now than to listen to the person speaking. Of course, this also means that I do not interrupt the other person.
- reflecting or mirroring the thoughts and feelings of others. *"What I under stood you to say . . ."* or *"What I heard you say . . ."* lets the other person know you are listening, and gives an opportunity for the other person to correct any misunderstanding or add information needed for understanding.
- listening for feelings as well as to words. People often hide or do not name their real feelings. Feelings are part of the "facts" operating in any situation and understanding what those feelings are is vital to understanding communication.

- practicing non-defensive listening. Setting aside my own views and feelings, although it may be threatening to me, helps me hear the other person and helps me be less judgmental. A good listener is searching for understanding of the other person, not victory over her or him.
- being conscious of "interpretive" listening. This occurs when the listener places his or her own meanings on what is being said, instead of listening to what the speaker is really saying.
- being aware of silence. There are individual and cultural differences in the use of silence and in the level of comfort with silence.
- noticing body language and other nonverbal cues such as facial expressions and tone of voice.
- being sensitive to cultural differences in the rhythm, assumptions, and expectations of communication. For instance, some cultures use silence, others "talk over" one another, and all use expressive and/or subtle body language. Often we experience "culture clash" in communication styles.

Non-Verbal Behaviors:

There are no right or wrong nonverbal behaviors. How such behavior is interpreted depends on the context and the culture of the people involved. The basic components of nonverbal behavior are listed below.

How a person says something includes speed of speech, tone of voice, emphasis on certain words, loudness, pitch, silence.

Body language includes gestures, facial expressions, and how we position our bodies.

Eye contact: With whom do we make eye contact, when, how often, and for how long. Eye contact reflects respect/disrespect, warnings and threats. It influences conversational pacing and who talks and for how long.

Interpersonal space: How close do we stand or sit to others? Who can touch whom, where, and in what situations? Is the space arranged in a formal or informal way? Does it encourage intimacy or non-intimacy?

Timing: Use of time, promptness, timing of arrival and departure, timing of verbal exchanges and interruptions.

Attraction and Resistance to Agreement

People come to a conciliation session wanting to reach an agreement that will meet their needs, allow them to maintain their position, and ultimately move beyond the conflict. They usually do not want to change, take responsibility for their contribution to the problem, or lose. Consequently, no agreement is entered into without some degree of doubt.

To help people reach agreement, in spite of some resistance or doubt, clarify what they want and how they will know it is all right for them to agree.

To help them clarify what they want, ask "outcome" questions (see Asking Questions section):

- What are you hoping for?
- How would you like to see this issue resolved?

To help them clarify how they will know that it is all right for them to agree, ask "evidence" questions (see Asking Questions section):

- How will we know that we have a good agreement?
- How will you know that the agreement is fair?

Interests and Positions

Interests are needs or desires that a person wants to have satisfied. Interests can be substantive, procedural, or psychological.

Positions are specific solutions that a person puts forth to meet a need or an interest. Positions are often stated as demands.

People coming to conciliation have been unable to resolve their disagreements. To help them move forward, conciliators assist both parties explore their demands or positions to discover their underlying interests. Parties may very well share common interests and have very different ideas (or positions) about how those interests can best be met. When parties begin to name their interests, the framework within which they understand each other broadens and the potential options for meeting their respective interests (needs or desires) increases. To be durable, agreements must address each party's interests.

The following are examples of Positions and one possible underlying Interest.

Position - What I want:

You have to get an aide for my child.

Interest - Why I want it:

I want my child to benefit from the educational program.

Position - What I want:

I can't have that child in my classroom.

Interest - Why I want it:

I need to feel that every child in my class is getting what s/he needs; I don't have the support staff to give a child with those particular special needs an appropriate program.

Interests are often hard to discover. People may not know what interests underlie a solution they are proposing. In most situations, people have several interests. By asking questions about the solution, you may be able to help them identify what is most important to them.

A conciliator might reframe a Position to get at the underlying Interest. For example:

Position: My child has the right to attend his neighborhood school.
Interest: Are you concerned about your child having friends in your neighborhood?

In addition to reframing, the following questions can help identify unspoken interests:

- Why is that solution important to you?
- What would that solution accomplish?
- How would that solution affect you?
- What if that did happen?
- What if it didn't happen?
- How would you experience that solution?
- What would that solution mean to you?

When people discover their underlying interests, they can move away from their attachment to one particular solution and open up to new options they had not considered before.

Some Specifics

The following pages contain information about specific ways to use communication skills within the conciliation process:

Asking Questions

Some Questions That Help

Reframing

Interrupting an Argument & Managing Anger

Power

Much has been written on each of these topics, and you are encouraged to refer to the Bibliography at the end of this manual for additional resources on communication skills.

Asking Questions

There are two main types of questions: the open-ended question and the directive question.

The open-ended question:

- is used to explore a topic more thoroughly.
- encourages a longer answer and the sharing of more information about the person's thinking, perceptions, attitudes, and feelings.
- can lead into areas that may be helpful to explore that may not have been thought of before.

A very useful open-ended question is what we call the Magic Question: *"Is there something you want us to understand that you feel we don't understand yet?"* This question encourages the answerer to consider what the team already understands and what s/he wants them to understand. This reflecting and sorting process often reveals new information or that person's most important concerns. The Magic Question should be used at the end of the Issues Phase and can be used any time focusing and summarizing would be helpful.

The directive question:

- is used to find out specific information.
- can be answered with "yes" or "no" or a short phrase.
- can be used to limit the answer to particular matters or information.

Both directive and open-ended questions may be phrased or asked in such a way that causes the person being asked to become defensive. Leading questions and "why" questions almost always result in defensive responses.

Leading questions are directive questions phrased in such a way that the answerer is led to a certain answer, often "yes" or "no."

For example: *"You received a notice about the meeting on November 2nd, didn't you?"*

"Why" questions are open-ended questions that call for the answerer to explain or justify his or her actions, thoughts, or beliefs.

For example: *"Why did you wait until Monday to notify me about the meeting scheduled for Friday?"*

Some Questions that Help

The following are questions that can help the answerer share more about a situation.

- What happened next?
- Could you explain . . . ?
- Is there anything else you think is important?
- Tell me more about . . .
- Let me make sure I understand . . . . Have I left anything out?
- Could you explain in your own words what you heard _____ say?
- Is there something you want _____ to understand that you feel s/he doesn't understand yet?
- Would you say a little more about . . . ?
- How do you react when that happens?
- Could you shed some light on . . . ?
- What do you know about [the other party]?
- Can you tell me a little bit more about yourself?
- What was that experience like for you?
- What will this mean to you?
- How did it affect you?
- How did that impact you?
- How did you react when you heard that information?
- Has a situation like this happened to you before?
- I understand that you feel . . . . Is that right?
- I hear you saying . . . . Am I correct?
- What do you need to feel better about this situation?
- What would work for you?
- What bothers you most about the situation?
- What would you like to see happen now?
- What kind of information would be helpful to you?
- What were your intentions?

Lost and Found

Lost:

A Wizard's loving pet.

Rather longish.

Somewhat scaly.

May be hungry or

upset.

Please feed daily.

P.S.Reward

Found:

A dragon

breathing fire.

Flails his scaly

tail

in ire.

Would eat twenty LARGE meals

daily

if we let him.

Please

Come and get him.

P.S.No reward necessary.

From *Something New Begins* by Lillian Moore.

Reframing

Reframing is changing the frame that a speaker has placed around the issue or subject being discussed. By reframing you can translate threats, toxic statements, and win/lose concepts into statements that can be addressed in a more constructive way. Here are some examples of how to use reframing.

- The speaker is name calling or using derogatory terms to describe another person. Use reframing to neutralize the language.
  For example: *"That teacher is nothing but a stupid idiot!"*
  Reframe: *"You are very angry with the teacher."*

- The speaker is focused on making the other person wrong. Use reframing to focus the speaker on the problem and what s/he can do about it.
  For example: *"If anyone at that school had listened to me earlier, this would not have happened."*
  Reframe: *"How could you be sure your input will be considered in the future?"*

- The speaker is having difficulty staying on track. Use reframing to bring the speaker back to the main subject.
  For example: *"So, then he went over to his sister and . . . ."*
  Reframe: *"You were telling me how he responded to your listening to him."*

- The speaker is focused on the past. Use reframing to focus on the future.
  For example: *"Every time I tried to get any information from the speech therapist, she told me not to worry."*
  Reframe: *"So you need a way to get information about your son's speech program, is that your concern?"*

Interrupting an Argument and Managing Anger

A conciliation session can be seen as a carefully controlled argument guided through helpful steps toward a constructive resolution. However, there are points within the conciliation when the disputants may engage in arguing behaviors that do not seem to be moving them forward in the process. It can be difficult to know when to allow such arguments to take place in the session and when to interrupt to redirect the dialogue. On one hand, such exchanges between the parties can help get feelings or issues out in the open. On the other hand, arguments within the session can set back progress if one or both parties feel hurt by what the other is saying, or if they slip into old patterns of destructive communication.

Family members, close friends, or others who have spent a great deal of time together are likely to have developed patterns of argument that are not constructive. Their arguments in a conciliation session can easily slip into old familiar patterns that have not worked well to resolve the current problems. An argument between strangers in a conciliation session is somewhat more likely to be a helpful one.

The comfort level of conciliators with the loudness or pace of the argument may not be a valid indicator of when to step in, but the following questions may be helpful:

1. Are the parties hearing each other?
2. Is the argument progressing without hurt or intimidation on either side?
3. Is the language fairly clear and non-blaming?
4. Do they remain focused on the issues, without too much jumping from one topic to another?
5. Is participation fairly equal?
6. Is there mutual respect even in the midst of the argument?
7. Does it feel as though this exchange is moving the process forward?

The more these questions can be answered "yes," the more likely the argument should be allowed to continue. Although interrupting is contrary to conciliation guidelines, there are times when it is appropriate to interrupt and redirect parties. When parties' anger seems to be getting out of control, it is important for team members to remain calm and help them change tracks. Be sure to watch the dynamics very closely, and be ready to interrupt if the tone or direction becomes hurtful or disrespectful.

One way to redirect the discussion in order to interrupt or prevent unproductive arguing is to ask each party to restate what the other has said and check for accuracy before responding. This paraphrasing process serves two functions: it slows down the volleys between the parties, and it gives each the experience of being heard by the other.

Some additional tools to help you interrupt or redirect are:

- Use the "nonsense syllable" — uh, um, eh.
- Repeat the person's name.
- Go to the future: *"What would you like to see happen next?"*
- Change the subject completely: *"So, let's see if we are clear on what you are wanting to accomplish here today?"*
- Stand up calmly and get their attention. Then, sit down and go back to the Issues Phase.

Adapted from "Mediating Interpersonal Conflict," Education for Conflict Resolution, Inc., ©1995.

Power

It is important to recognize that power affects the parties in a conciliation. If it is possible to help someone balance power in the situation or become more aware of her or his power, this will help both parties reach a more workable and fair agreement.

Power is the ability to act effectively and to influence the actions of others. Power exists within a relationship.

Some thoughts about power:

- Power is relative.
- Power depends on the situation.
- Power shifts and changes.
- Everyone has some degree of power.
- People are often unaware of their power and how they use it.
- The exercise of power has both benefits and costs.
- Power may be enhanced or diminished by many factors.

Some of these factors include:

1. Control of resources
2. Knowledge and expertise
3. Relationship
4. Belief systems
5. Personality and temperament
6. Authority or position
7. Gender
8. Age
9. Education
10. Self-esteem

Conflict

The Role of Communication

Communication lies at the heart of personal interactions, whether in family, friendships, the workplace, or any of the other arenas in which people engage one another. The success and satisfaction of daily transactions depend on the effectiveness of communication. Poor listening and speaking skills often contribute to misunderstandings between people. The ability to handle conflict constructively can be improved by using good listening and speaking skills.

Regardless of personal style, education, or experience, more effective communication skills can be learned and practiced. These skills, along with a better understanding of our own personal style and the styles of others, allow us to say more clearly what we want to say and to hear more easily what others say to us. Clear communication enhances our problem-solving and dispute resolution skills.

Communication is central to conflict.

- **Communication causes conflict.** For example, people use words to which they attach different meanings; they misunderstand each other; and conflict results.
- **Communication expresses conflict.** People use verbal and nonverbal communication to share their perspectives, experiences, and feelings.
- **Communication represses conflict.** People use verbal and nonverbal communication to avoid sharing their perspectives, experiences, and feelings, and to repress those of others.
- **Communication is a vehicle for transforming conflict.** Skillful communication can help people surface issues, gain new understanding, and change the dynamic of their conflict.

The following assumptions support cooperative communication skills:

1. People deserve respect.
2. Diversity in style, gifts, and opinions is normal.
3. Disagreements can lead to healthy growth and enhanced relationships.
4. Most people genuinely want to be helpful in the face of conflict but may lack the necessary skills.
5. Most people will negotiate more reasonably if they feel their viewpoint is heard and respected.
6. Lack of openness about feelings, beliefs, or preferences can cause confusion and a sense of manipulation.
7. Cooperative communication may not be effective when the receiver has significant emotional problems or is acting in bad faith. However, this is the situation far less frequently than is generally assumed.

Adapted from copyrighted materials Mennonite Conciliation Service, 1989.

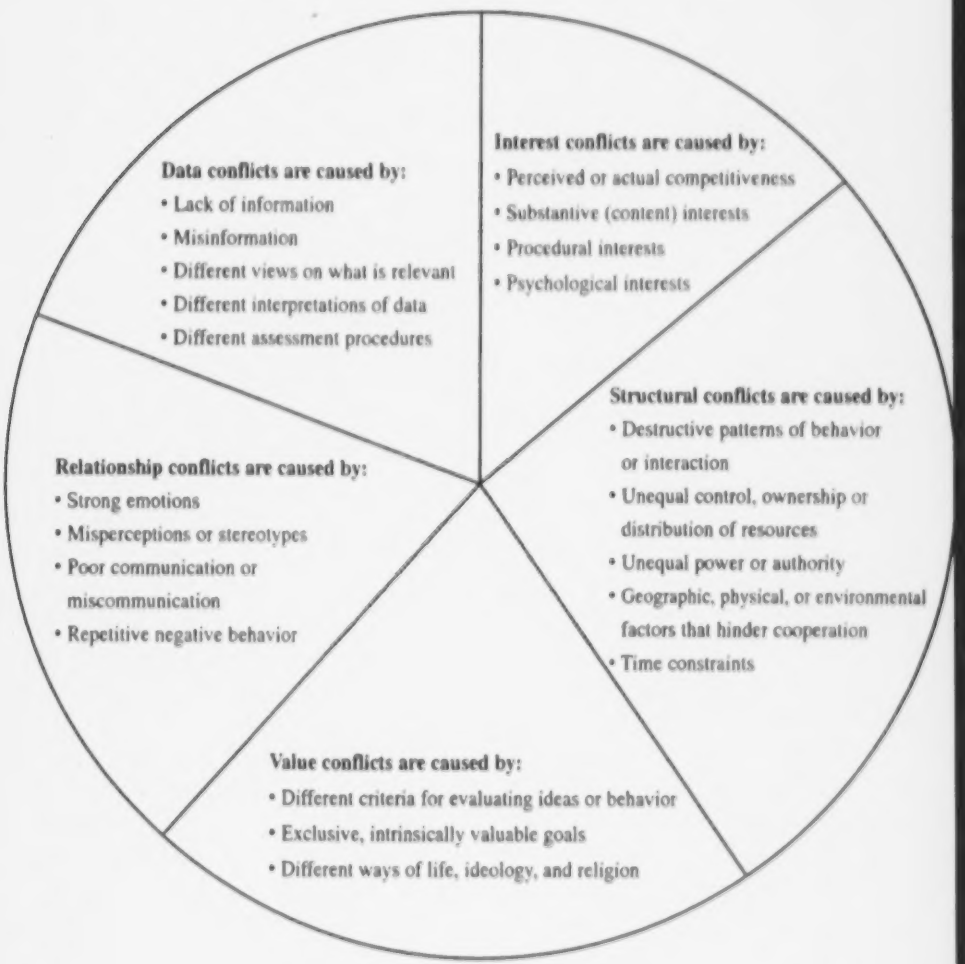
Nature of Conflict

Conflict exists. It is normal and natural. Tension can occur when people have different:

goals	expectations	strategies	needs	resources
values	ideas	styles	perceptions	beliefs

Conflict arises where there is a real, perceived, or feared state of competing interests.

The "Sphere of Conflict" illustrates one way of viewing the roots of disagreements.


Data conflicts are caused by:
• Lack of information
• Misinformation
• Different views on what is relevant
• Different interpretations of data
• Different assessment procedures
Interest conflicts are caused by:
• Perceived or actual competitiveness
• Substantive (content) interests
• Procedural interests
• Psychological interests
Structural conflicts are caused by:
• Destructive patterns of behavior or interaction
• Unequal control, ownership or distribution of resources
• Unequal power or authority
• Geographic, physical, or environmental factors that hinder cooperation
• Time constraints
Value conflicts are caused by:
• Different criteria for evaluating ideas or behavior
• Exclusive, intrinsically valuable goals
• Different ways of life, ideology, and religion
Relationship conflicts are caused by:
• Strong emotions
• Misperceptions or stereotypes
• Poor communication or miscommunication
• Repetitive negative behavior

"SPHERE OF CONFLICT"

From "Techniques to Break Impasse," by Christopher W. Moore in *Divorce Mediation*, edited by Jay Folberg and Ann Milne.

The Conflict Cycle

The beliefs and attitudes that we bring to a conflict shape our experience of that conflict, determine our response to it, and lead to consequences that in turn reinforce those beliefs and attitudes. Conflict carries energy within it and that energy can be managed for constructive rather than destructive results. Conciliation is one way of transforming the experiences, responses, beliefs, and attitudes people have as they move around the cycle of conflict.

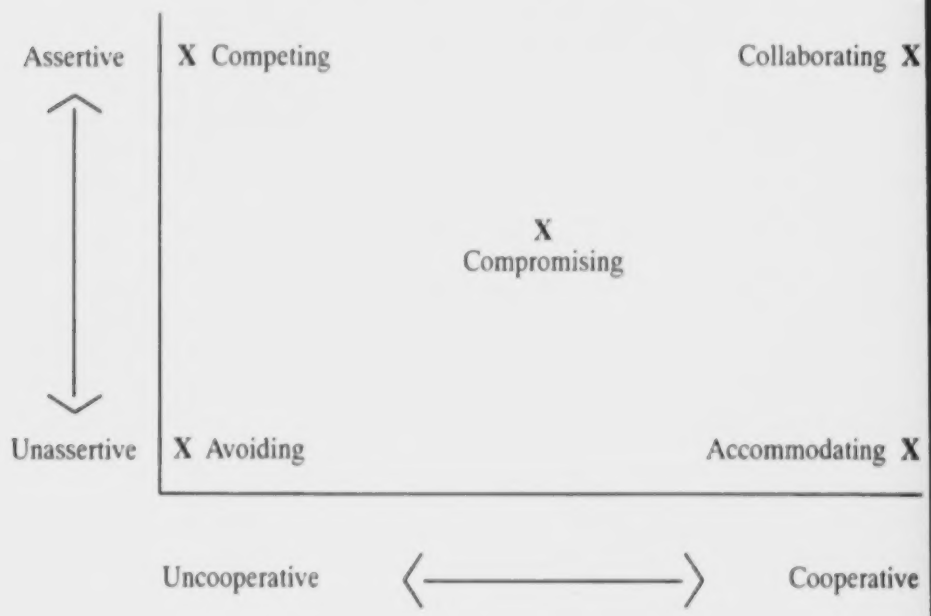
Adapted from Community Boards of San Francisco, Inc., *Conciliation Handbook*, 1994.

Response to Conflict

Conflict is not the problem. Each of us successfully resolves conflict every day. Rather, some conflicts become problems because of how we deal with them; the ways we try to resolve or ignore them.

People can choose their response to conflict. Different people respond differently to the same situation. Most of us respond differently in different situations although we tend to have one or two preferred responses. The appropriateness of a particular response for a particular situation is best gauged by the person responding. If we develop the ability to respond in more than one way, we increase our capacity to meet our needs while being consistent with our beliefs and values.

The following matrix illustrates one way of looking at possible responses. Responses range from Unassertive to Assertive and from Uncooperative to Cooperative. The response in a given conflict can be positioned as a point within the bounds of avoidance, accommodation, competition, collaboration, or compromise.



For the purposes of this matrix:

Assertiveness is behavior that seeks to meet one's own needs.

Cooperation is behavior that seeks to meet the needs of others.

This model of conflict response is adapted from "Conflict and Conflict Management," *The Handbook of Industrial and Organizational Psychology*, by Kenneth Thomas and edited by Marvin Dunnett.

The Choices We Have when Facing a Conflict or Problem with

Methods	Withdrawal
Personal Style	Sulk. Refuse to talk. Walk away. Punish with silence.
Attitude to the Relationship	Passive-aggressive. No relationship.
Hard/Soft (tough/easy) Ratio	Hard on the people. Impotent on the problem.
Trust?	Absent: you don't trust yourself or the other person.
Who wins?	No one. They both lose.

Methods	Suppression
Personal Style	Stay cheerful, and refuse to talk about the problem (martyr).
Attitude to the Relationship	Preserve the status quo at all costs.
Hard/Soft (tough/easy) Ratio	Soft on the people, impotent on the problem.
Trust?	Low trust of yourself and the other person.
Who wins?	On the surface, win/win, but some one's losing.

Methods	Compromise
Personal Style	Make concessions to keep the friendship.
Attitude to the Relationship	Non-assertive. Participants are cooperating.
Hard/Soft (tough/easy) Ratio	Soft on the people and the problem.
Trust?	Trust the other.
Who wins?	Neither is totally satisfied.

Methods	Win/Lose
Personal Style	Demand concessions, using any power available to achieve them.
Attitude to the Relationship	Preserve the status quo at all costs.
Hard/Soft (tough/easy) Ratio	Soft on the people, impotent on the problem.
Trust?	Low trust of yourself and the other person.
Who wins?	On the surface, win/win, but some one's losing.

Methods	Win/Win
Personal Style	Negotiate a mutually acceptable solution.
Attitude to the Relationship	Assertive. Participants are problem solvers.
Hard/Soft (tough/easy) Ratio	Soft on the people and hard on the problem.
Trust?	Trust in your ability to find solutions. Negotiations based on respect independent of trust.
Who wins?	Both get what they want.

Adapted from *Getting to Yes* by Roger Fisher and William Ury.

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Conflict Escalation and De-Escalation

A conflict will be more likely to escalate when:

Other people become involved in the dispute and take sides.

One or both people feel threatened by the other.

The parties have no interest or investment in maintaining the relationship.

The parties have a history of unproductive conflict.

Indirect expression of anger, fear, or frustration increases.

Important needs are not acknowledged and met.

The parties lack the skills necessary for peacemaking or are unable to recognize and apply the skills they possess.

A conflict will be more likely to decrease or de-escalate when:

Those involved focus on the problem rather than on each other.

Emotions of anger, fear, and frustration are expressed directly rather than demonstrated indirectly.

Threats are reduced or eliminated.

The people involved have a history of cooperative problem solving.

Needs are openly discussed.

The people involved are able to use their peacemaking skills, or they receive some help in applying them.

Adapted from The Community Boards Programs, Inc., 1987.

Cross-Cultural Aspects

The Givens of Culture and Values

A Definition of Culture

"Within a group, it is what everybody knows that everybody else knows."

Human beings create culture.

Each group develops its own culture.

Cultural assumptions are beliefs that are so completely accepted within the group that they do not need to be stated, questioned, or defended.

Children raised in a particular group are enculturated into its "right" ways.

Everyone is culture-centric. We see the world through culture-colored glasses.

We compare people and events based on our own value systems.

Each culture thinks its own ways are superior.

Our culture determines our values.

Our values determine our hierarchy of choices.

Our culture and values influence what we see, hear, and feel. They also influence how we process what we see, hear, and feel.

We all have biases and prejudices.

People are not evil for being biased or prejudiced.

Our values show up in our interactions with people.

Discussing biases and prejudices is risky, because it is easy to be misunderstood or mistaken for a bigot.

Each group finds its own way to meet humanity's ten basic needs: food, shelter, clothing, religion, arts/crafts, family organization, knowledge/science, war/protection, social organization, and government.

Different groups develop different ways to meet these ten needs.

There are no cross-cultural problems if a person stays within his/her culture.

Intercultural problems may occur when a person from one culture is suddenly thrust into another culture that is markedly different, or when a person of one group tries to communicate with a person from another.

There are no absolute "right" responses only "right" or "wrong" ones within any given culture. One group is not better or worse than another, only different.

Not every conflict involving people who are different is caused by differences in culture.

In every culture, people communicate because they want to be understood.

In every culture, people respond to respect and disrespect.

There is no universal, intercultural problem solving method.

We can increase our effectiveness as intercultural communicators and problem solvers.

We cannot know all things about all cultures.

We can be more aware of what there is to be aware of.

Cultural conflict does not disappear because we decide to ignore it.

There is ambiguity in diversity. Acceptance of diversity, an open mind, hope, patience, and faith are important in improving our relations with others.

Intercultural relationship development grows through commitment, not accident.

Adapted from Community Boards of San Francisco, Inc., *Conciliation Handbook*, 1994.

Cultural Differences

Below are seven guidelines to keep in mind when a dispute involves parties from cultural, racial, or ethnic backgrounds different from yours and/or from each other. They are also applicable to disputes involving people of different ages or people with different lifestyles.

Your listening and speaking skills are the foundation for communication in any situation. In order to build trust and to understand the underlying issues when working with people from different backgrounds, you will need to be even more sensitive than usual. Careful and thoughtful listening and questions can help you recognize similar or different assumptions, perceptions, and values.

Remain Impartial and Acknowledge Your Own Biases

As a team member, you must be impartial in every situation. In a situation involving cultural differences, acknowledge your own cultural biases to yourself and to other team members. Then set them aside in order to understand the points of view of the parties.

Be Sincere and Genuine

Be honest when you empathize with someone. Never pretend that you are someone different from who you really are in order to fit in or to make a good impression.

Be Respectful

One of the best ways you can show your respect is to be polite and humble. Do your best to convey that you really want to hear how somebody else feels rather than imply that you already know.

Ask Questions

Ask open-ended questions to help the parties explain their own perceptions and points of view. For example, you might ask, *"How would this situation be handled in your community?"* Then use validation to make sure the parties know that you value their point of view.

Adapted from Community Boards of San Francisco, Inc., *Conciliation Handbook*, 1994.

Do Not Make Assumptions

Do not assume that someone else sees the situation the same way you do, and don't assume that you know how an individual feels just because you know her/his cultural or racial background. Every individual is unique and must be listened to in order to find out her/his point of view.

Do Not Be Afraid to Speak Directly about Cultural Differences

Some of us may have been taught to ignore or to gloss over cultural differences, and we may feel uncomfortable talking about them. In many situations, acknowledging these differences as a source of conflict is a relief to the people involved. In fact, acknowledging them can often help people explain their feelings and perceptions. Once you have established trust with a party, you might ask, "Do you think this problem is related in any way to your different backgrounds?"

Work as a Team

Talk with your teammates about your assumptions and perceptions of the situation. Help each other be respectful and remain impartial. It may be helpful to let the person with the most similar cultural or racial background to a party take the lead in developing rapport.

Adapted from Community Boards of San Francisco, Inc., *Conciliation Handbook*, 1994.

Ethics

Code of Ethics

A Conciliator follows this Code of Ethics.

1. **Commitment.** A Conciliator is committed to assist all involved individuals, as opposed to one individual, reach a mutually satisfactory resolution. A Conciliator should maintain freedom from bias and favoritism.

2. **Disclosure.** A Conciliator should disclose to all involved individuals any circumstances that might cause a conflict of interest.

3. **Withdrawal.** If the Conciliator or anyone involved believes that the Conciliator's background, experiences, or prior relationship with any individual may prejudice the Conciliator, the Conciliator should withdraw from the situation, unless all agree to proceed.

4. **Confidentiality.** A Conciliator should disclose, at the first opportunity, any limits or exceptions to the principle of confidentiality. Absent any such limit or exception, a Conciliator should maintain confidentiality regarding all information obtained in the course of his or her involvement in a disputed situation. This obligation extends to the storage and disposal of documents.

Oregon Mediation Association Standards of Mediation Practice

The Oregon Mediation Association is a statewide nonprofit organization of mediators and supporters of mediation. All members of OMA agree to practice mediation according to the OMA Standards of Practice which follow.

Preamble

Mediation is a conflict resolution process in which an impartial third participant facilitates participants negotiating a voluntary agreement. In mediation, whether private or public, voluntary or mandatory, decision-making authority rests at all times with the participants.

These standards are intended to assist and guide public, private, voluntary and mandatory mediation in Oregon. It is understood that mediator adherence to these standards will depend upon specific subscription to the standards and may be influenced by state and local law or court rule.

In developing and publishing these standards, the Oregon Mediation Association has the dual purpose of providing guidance to Oregon mediators and education to the public about appropriate mediation procedures. The Oregon Mediation Association views these standards as minimum standards which can reasonably be expected of Oregon mediators. Oregon mediators are encouraged to abide by these standards when acting in a mediative capacity.

General Responsibilities

Mediators have duties to the participants, to their profession, and to themselves. They should be honest and unbiased, act in good faith, be diligent, and never seek to advance their own interests at the expense of the participants.

Mediators must act fairly in dealing with mediation participants, have no personal interest in the terms of any settlement agreement, show no bias toward individuals or institutions involved in mediation, be reasonably available as requested by mediating participants, and be certain that the participants are informed about the mediation process in which they are involved.

Responsibilities to the Participants

1. **Impartiality.** The mediator must maintain impartiality toward all participants. Impartiality means freedom from favoritism or bias either by word or by action, and a commitment to serve all mediation participants as opposed to a single participant. The mediator should disclose to the participants any affiliations which the mediator may have with any participant and obtain all participants' consent to proceed as mediator.

2. **Informed Consent.** The mediator has an obligation to assure that all participants understand the nature of the mediation process, the procedures to be utilized and the particular role of the mediator. Each party's consent to proceed with mediation should be obtained early, prior to the beginning of substantive negotiations.

3. **Confidentiality.** Maintaining confidentiality is generally critical to the integrity of the mediation process. Confidentiality encourages candor, a full exploration of the issues, and the possibilities of settlement. The mediator shall inform mediation participants of the degree to which communications connected with the mediation shall be confidential, including any individual caucuses which may be utilized. Except as legally required, the mediator should resist testifying, and disclosing other information about the substance of a mediation at any proceeding without the consent of all mediating participants.

4. **Suspension or Termination of Mediation.** The mediator shall inform the participants of their rights to withdraw from mediation at any time and for any reason, except as is required by law. If the mediator believes that participants are unable or unwilling to participate effectively in the mediation process, the mediator should suspend or terminate the mediation, except as is required by law. If the participants reach a final impasse, the mediator should not prolong unproductive discussions which result in emotional and monetary costs to the participants.

Defining the Process

1. **Comparison to other Processes.** The mediator shall explain that mediation is not arbitration, legal representation or therapy and that the mediator will not decide any issue for the participants.

2. **Independent Advice and Information.** In mediations in which disputants personally represent their own individual interests and substantial legal issues exist, the mediator shall encourage participants to obtain desired individual legal advice and individual legal review of any mediated agreement as is reasonably necessary for the participants to reach an informed agreement.

3. **Full Disclosure.** In mediations in which disputants represent their own individual interests, the mediator shall seek to ensure to the mediator's and all mediation participants' reasonable satisfaction the full disclosure of relevant information in the mediation process. If the mediator believes that full disclosure is not reasonably being made, the mediator shall express such concern to the mediation participants. If this concern is not reasonably satisfied, the mediator may suspend or terminate the mediation.

4. **Opportunity for Full Expression of Interests.** The mediator shall seek to provide each mediation participant with a full opportunity to effectively express his or her interests.

5. **Fees.** The mediator has a duty to define and describe any fees for the mediation and to agree with participants as how fees are to be shared and the manner of payment before proceeding to facilitate substantive negotiations. When setting fees, the mediator shall ensure that they are explicit, fair, and commensurate with the service to be performed. Unearned fees must be promptly returned to the participants. It is inap propriate for a mediator to charge contingent fees or to base fees upon the outcome of a mediation. No commission, rebates, or similar forms of remuneration shall be given or received for referral of clients.

6. **Additional Representation or Roles.** A mediator should not engage in any non-mediative role relative to the subject matter of a mediated dispute, except by the informed consent of all mediation participants.

Responsibilities to the Profession and the Public

1. **Continuing Education.** A mediator shall participate in continuing mediation education and be personally responsible for ongoing professional growth. A mediator is encouraged to join with other mediators and members of related professions to promote mutual professional development.

2. **Advertising.** All mediation advertising must honestly represent the mediator's qualifications and the services to be rendered. No claims of specific results or promises should be made.

Conciliation Forms

Case #_____

AGREEMENT TO PARTICIPATE IN CONCILIATION SESSION
and
AGREEMENT TO CONFIDENTIALITY

I agree to attend a conciliation meeting that is scheduled at an agreeable time and date. If I have an emergency that will keep me from attending, I agree to contact the person scheduling the conciliation as soon as possible.

I understand that the conciliation process is voluntary and confidential. Voluntary means that anyone can leave the conciliation at any time and not continue the meeting. Confidential means that any information which I share in the conciliation will not be shared with anyone else without my permission. I agree not to share anything anyone else shares in the conciliation without their permission. The only exception to this agreement would be if the concern of child abuse arises in which case the Program is obligated to report that information to the Office of Services for Children and Families. I understand that the conciliators will refuse to provide any materials or to testify concerning any of our discussions in any hearing or court proceeding, unless to refuse would constitute contempt of court.

I understand that the conciliation process is not the same as having a due process hearing or going to court. I understand that the conciliators will not make decisions for me or for anyone else in the conciliation. I agree to work hard to resolve the concerns that I am bringing to conciliation. I also understand that there are no guarantees; even if I work hard, there will be no agreement unless everyone agrees.

I understand that if I want to stop the conciliation or if I am not satisfied at the end of the conciliation, I can still request a due process hearing or any other legal process I wish.

_____

Signature Date

_____

Name (please print)

_____

Case Developer signature

Case #_____

INFORMED CONSENT

You are invited to take part in a research project about improving the delivery of services to children and young adults with disabilities and helping assure their involvement in appropriate educational programs. The program is striving to resolve individual and systemic problems enabling children with physical, mental, emotional, or learning disabilities and their families to receive the services they need. The purpose of our study is to examine the effectiveness of the Conciliation Program, not to study the families who receive assistance. The research project is part of a study being conducted by Marshall Peter, Anita Engiles, Bonnie Todis, and Susan Baxter Quash-Mah at Direction Service.

You can choose whether you want to be part of the research project. As part of our research, we will ask you to share with us your impressions of the service and how it might be improved. Whether you decide to be a part of the research project or decide, now or in the future, not to participate, you will be provided the assistance and services offered by the program. If you do decide to be part of the program and you start to feel uncomfortable, you can stop at any time.

One reason you may not want to be in the research project is that you might feel uncomfortable talking about personal experiences when you know that information may be shared with other members of the research team. You might be concerned that someone who was not a part of the research team would find out what you said and felt. To make sure this does not happen, we will train everyone in the program not to talk about anything they learn from interviews or file information with anyone outside of the program. Another way we will protect your privacy is by assigning you a number for research purposes, so no one who is not part of the research team will know who said what. You may ask at any time to see the material in your file and to have comments taken out.

It is our strong belief that families will benefit from being involved with the Conciliation Program. However, allowing the program to provide assistance might cause your situation to get worse rather than better. If you have any questions about the program at any time, you can call Marshall at 503-686-5060 (TDD 686-5063).

If you sign below, you are saying that you understand this information, you agree to take part in the research project, you know you can stop at any time, and you have been given a copy of this form.

_____

Signature Date

_____

Name (please print)

_____

Case Developer signature

Case #_____

CONCILIATION PROGRAM
AUTHORIZATION FOR RELEASE AND EXCHANGE OF INFORMATION

Date _____

TO: _____

_____

_____

This is to authorize the release and exchange of pertinent information and records concerning:

Name: _____ DOB: _____

Parent/Guardian: _____

In order to help resolve concerns and/or problems relating to delivery of services to my child, I hereby authorize you to share information with Lane County Direction Service. This authorizes the exchange of past, current, and future records and information regarding this client until the expiration date of _____.
I realize that I have a legal right to terminate the conditions of this authorization at any time.

_____

Signature of Client or Parent/Guardian if minor Date Signed

_____

Name of Client or Parent/Guardian (please print)

_____

Signature of Case Developer

CONCILIATION INTAKE & INTERVIEW FORM

Date_____ **Referred by** _____

Case Developer_____ **Case #** _____

IDENTIFYING INFORMATION OF PEOPLE INVOLVED

Name of Student _____

Name of Parent(s)/Guardian(s) _____

Address _____

Phone: wk _____ hm _____ best time to call _____

Cultural/Ethnic/Racial background _____

Name of District & School _____

Name & Title of Contact _____

Address _____

Phone: wk _____ hm _____ best time to call _____

Cultural/Ethnic/Racial background _____

Name of Other(s) Involved _____

Name & Title of Contact _____

Address _____

Phone: wk _____ hm _____ best time to call _____

STUDENT INFORMATION

Birthdate ___/___/___ Grade _____ Gender__ M __F

Cultural/Ethnic/Racial background _____

Date of last evaluation___/___/___ Date of last IEP meeting___/___/___

Disability _____

Spoken language(s) _____ Other means of communication _____

Interpreter Needed _____

Date of rejected IEP___/___/___ Date of conciliation request___/___/___

Hearing request ___Yes ___No Date of hearing request ___/___/___

Summary from Parent(s).

History:_____

_____

Present situation:_____

_____

_____

What does Parent(s) want?_____

_____

_____

Who else is involved?_____

_____

Does or does not want a conciliation?_____

Best time(s)/day(s) for conciliation._____

_____

Willing to have one or two observers (who)?_____

Agreement to Mediate and Confidentiality signed?_____

One-word description of other party(ies)?_____

Case Developer comments (e.g., suitability for conciliation, will attend, will reach agreement, etc.)

_____

Summary from District/School.

History: _____

_____

Present situation: _____

_____

What does School want?_____

_____

Who else is involved?_____

_____

Does or does not want a conciliation?_____

Best time(s)/day(s) for conciliation._____

_____

Willing to have one or two observers (who)?_____

Agreement to Mediate and Confidentiality signed?_____

One-word description of other party(ies)?_____

Case Developer comments (e.g., suitability for conciliation, will attend, will reach agreement, etc.)

_____

RECORD OF CONCILIATION UNDERSTANDING FORM

The following understanding was reached as the result of a conciliation held on(date):_____

_____

Signature of Parent/Guardian Date

_____

Signature of School Representative Date

_____

Signature of Conciliation Facilitator Date

CONCILIATION REPORT

(to be completed by the case developer at the conclusion of the conciliation)

Student Name _____ Case # _____

Case Developer _____ Date _____

Results:_____ Agreement _____ Partial agreement _____ No agreement

Date of IEP to implement results ____ /____ /____

Total # of people at conciliation (including conciliators) _____

Conciliators:

_____ _____

_____ _____

_____ _____

(Facilitator)

Other persons attending:

_____ Student _____ Spec ed admin (title)_____

_____ Mother _____ Reg ed admin (title) _____

_____ Father _____ Spec ed teacher

_____ Stepparent(s) _____ Reg ed teacher

_____ Guardian(s) _____ Other (give title) _____

_____ Advocate(s) _____

ISSUES (Mark all that were identified and indicate by whom.)

Identification: S = Student P = Parent A = Administrator T = Teacher O = Other

_____ Eligibility

_____ Identification

_____ Permission to evaluate

_____ Independent education evaluation (IEE)

_____ Type of special education program

_____ Type of related service

_____ Amount of special education program

_____ Amount of related service

_____ Least restrictive environment

_____ Private placement

_____ Transportation

_____ Change of educational level

_____ Extended school year

_____ Vocational education

_____ Cost of program/service

_____ Graduation

_____ Behavior management

_____ Suspension &/or expulsion

_____ Method of instruction

_____ Availability of personnel

_____ Goals & objectives

_____ Communication problem

_____ Different perceptions of student's needs

_____ Personality clash

_____ Conflict over other issues

_____ Previous conflict over same issues

_____ Personnel problems

_____ Medical

_____ Other (specify)

_____

_____

_____

Debriefing Protocol

What were the issues as perceived by the parent(s)?

_____

What were the issues as perceived by the school?

_____

What were the issues as perceived by other(s)?

_____

What factors led to the dispute?

_____

What factors contributed to reaching/not reaching an agreement?

_____

How likely do you think it is that the agreements will be carried out?

_____

Is the agreement reached one that will solve the problem? For how long?

_____

What did you do that was effective?

_____

What would you do differently?

_____

Conciliator perception of factors that led to dispute (the most significant factors).

_____ Different perceptions of student's needs

_____ Different opinions about appropriate services

_____ Miscommunication

_____ Insufficient communication

_____ Distrust based on conflict over this issue

_____ Distrust based on conflicts over other or previous issues

_____ Poor fit between student and educator/administrator

_____ Poor fit between parent and educator/administrator

_____ Parent's personal issues

_____ Educator's/administrator's personal issues

_____ Insufficient appropriate resources

_____ Intra-team dynamics

_____ Educator - administrator dynamics

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